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C O N F I D E N T I A L STATE 041098

SIPDIS

E.O. 12958: DECL: 04/22/2019
TAGS: [EAIR](#) [ETRD](#) [ETTC](#) [PGOV](#) [PREL](#) [SP](#) [SY](#)
SUBJECT: SPANISH COMPANY ORION AIR LEASING AIRCRAFT TO
SYRIAN PEARL AIRWAYS (CHAM PEARL)

REF: DAMASCUS 295

Classified By: EUR A/S Marcie Ries for Reasons 1.4 (b) and (d)

SUMMARY

¶1. (C) Department requests action addressee approach Orion Air to discuss their decision to lease two aircraft to Syrian Pearl Airways (Reftel). Post may draw from the attached talking points as needed. Post is also requested to obtain from Orion Air any relevant documents, such as the lease agreements, or background concerning the leases. End Summary.

TALKING POINTS

¶2. (SBU) Post may draw from the following points as needed:

--We understand that Orion Air is considering leasing two BAE 146-300 aircraft to Syrian Pearl Airways (aka Cham Pearl).

--The U.S. strongly encourages you not to lease these planes.

--If these aircraft contain more than 10% U.S.-origin parts and components (which we believe to be the case), Orion Air will violate U.S. export control laws if Orion follows through with this transaction without a license from the U.S. Department of Commerce.

--The Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (a.k.a the Syria Accountability Act), prohibits the export of nearly all U.S. origin products to Syria (except food or medicine) unless the exports are authorized by the Department of Commerce. This prohibition applies regardless of whether the goods are sold or leased and regardless of whether the goods are sent to Syria from the U.S. or another country. This prohibition also applies to goods that were not manufactured in the U.S., but which contain more than 10% U.S.-origin parts and components.

--It is highly unlikely that the U.S. Department of Commerce would approve an application for a license to lease a plane to Syria.

--Additionally, Cham Pearl is a joint venture company whose largest owner is Cham Holding. Cham Holding was founded by Rami Makhlouf. On February 21, 2008, the U.S. Department of Treasury designated Rami Makhlouf as a Specially Designated National under Executive Order 13460 for contributing to or benefiting from corruption in Syria.

--We urge Orion Air to stop the lease of these two aircraft to Cham Pearl. Sending these planes without the required export license from the Department of Commerce to a company partially owned by a Department of Treasury Specially Designated National could lead to enforcement action by

Commerce and could have a negative impact on Orion Air's future business dealings with U.S. companies and financial institutions.

--The Department of Commerce is currently investigating this transaction. If you proceed with the transaction, Commerce may impose a Temporary Denial Order (TDO) against your firm. A TDO would prohibit Orion Air from participating directly or indirectly in, or benefitting in any way from, any transaction subject to the Export Administration Regulations (EAR) for the duration of the order. It would also be a violation of the EAR for any person to participate in a transaction subject to the EAR involving Orion Air.

--A TDO against Orion Air would prohibit any person from selling or supplying U.S.-origin items, including aircraft and spare parts, to Orion Air.

--In addition to Commerce possibly imposing a TDO, Orion Air would face civil and criminal penalties if you violate the EAR. The penalties Orion Air would potentially face include criminal penalties of up to \$1,000,000 and 20 years imprisonment per violation. Civil penalties can reach the greater of \$250,000 per violation or twice the amount of the transaction that is the basis of the violation. Orion Air may also be subject to a denial of its export privileges.

--Commerce recently imposed TDOs in similar situations involving transfers of civil aircraft to State Sponsors of Terrorism. In March 2008 Commerce imposed a TDO against the Balli Group of the United Kingdom and Mahan Air of Iran. In June 2008 Commerce imposed a TDO against Ankair of Turkey, Galaxy Aviation of the United Kingdom and Iran Air of Iran. Copies of these TDOs are available on the Department of Commerce, Bureau of Industry and Security website www.bis.doc.gov.

REPORTING DEADLINE

13. (SBU) Please report responses by cable by April 29, 2009

BACKGROUND

14. (C) Multiple Syrian websites have reported that Syrian Pearl Airways (SPA), also known as Cham Pearl, has leased two BAE 146-300 aircraft from Spanish company Orion Air. Cham Pearl is expected to take delivery of the planes between April 27-29. Orion Air confirmed they have a one year contract, to be extended for a second year, to provide the aircraft. The aircraft, according to Orion Air, are constructed in the UK but have U.S. engines. The Syria Accountability and Lebanese Sovereignty Act prohibits the export of nearly all U.S.-origin products (except food and medicine) to Syria. Although it is possible to receive a waiver to this prohibition in very specific instances, it is highly unlikely that a waiver would be granted for leasing aircraft to Syria. Should Orion Air proceed to lease these aircraft, the Department of Commerce may take a number of actions that could adversely impact Orion Air's ability to do business with U.S. businesses or banks.

POINT OF CONTACT

15. (SBU) Please contact Syria Desk Officer Allison Monz (NEA/ELA) at (202) 647-1131 or via e-mail at monzam@state.gov for further information.
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